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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/780,076

02/17/2004

Nick Semitka

9495

7590

09/13/2006

Nick Semitka  
40783 Gridley Drive  
Antioch, IL 60002

EXAMINER
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MOHANDESI, JILA M

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/780,078

Applicant(s)

SEMITKA, NICK

Examiner

Jila M. Mohandesi

Art Unit

3728

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species:

Species I as shown in Figures 1-4 embodiments.

Species II as shown in figures 5-6 embodiments.

Species III as shown in Figures 7-8 embodiments.

2. The species are independent or distinct because the first species is directed to a mountable securing device with a toothed strap 14 having saw type tooth and a spring loaded pawl 16. The second species is directed to a mountable securing device with a continuous strap 24 and the third species is directed to a mountable securing device with hook 32.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims appear to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations

Art Unit: 3728

of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

3. During a telephone conversation with applicant Mr. Nick Semitka on January 18, 2006 a provisional election was made without traverse to prosecute the invention of species I, claims 1-4, 6 and 8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5 and 7 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### ***Oath/Declaration***

4. Applicant is reminded of the Notice of Informal application which was mailed August 13, 2004 requesting a new oath or declaration. No response has been received to date.

The oath does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either an application data sheet or supplemental oath or declaration.

#### ***Claim Objections***

5. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims



Art Unit: 3728

are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

There are 2 claims numbered with 1.

Misnumbered claim 1- 7 has been renumbered 1-8.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Shears (3,137,952). Shears '952 discloses a mountable securing device for fastening footwear, comprising: at least two opposing surfaces on said footwear, whereby each surface having a plurality of openings (lacing holes 2), said openings having a front and back surface; a pair of fastening assemblies having a housing member (nut member 6) and an engaging device (screw member 7); a base (stretchable strap 5) having at least two complementary openings to said footwear surface opening; said base having a securing means (buckles 8); said housing member adapted to complementary fit to the back of said footwear surface opening; and said engaging device adapted to complementary fit to said front surface of said footwear surface opening; whereby when said housing member engages said engaging device said securing means of said base is enabled fastening said footwear. See Figures 1-3 embodiments.

8. Claims 1-4, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. (5,526,585). Brown 585 discloses a mountable securing device for fastening footwear, comprising: at least two opposing surfaces on said footwear, whereby each surface having a plurality of openings (eyelets C2), said openings having a front and back surface; a pair of fastening assemblies having a housing member (fastener structure 18) and an engaging device (peg-like structure 16); a base (buckle-like structure 14 with threaded hole, see column 4, lines 50-52) having at least two complementary openings to said footwear surface opening; said base having a securing means (strap-like substructure 30 & holder substructure 32); said housing member adapted to complementary fit to the back of said footwear surface opening; and said engaging device adapted to complementary fit to said front surface of said footwear surface opening; whereby when said housing member engages said engaging device said securing means of said base is enabled fastening said footwear. See Figures 1-7 embodiments.

With respect to claim 8, note the locking member (strap-like substructure 30) pivotally connected between said footwear surfaces.

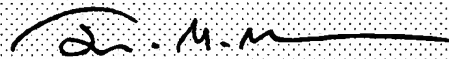
### **Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are mountable securing devices analogous to applicant's instant invention.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
February 15, 2006